

AMENDED IN SENATE APRIL 1, 1997

SENATE BILL

No. 488

Introduced by Senator Lee

February 20, 1997

An act to amend Section 33334.17 of, and to repeal Sections 33320.6 and 33334.18 of, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 488, as amended, Lee. Redevelopment: low- and moderate-income housing funds.

Existing law, known as the Community Redevelopment Law, authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in areas of those communities known as project areas. The Community Redevelopment Law requires that not less than 20% of tax increment funds that are allocated to the agency be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined, to persons and families of low or moderate income, as defined, and very low income households, as defined, unless a finding is made by the legislative body of the community, as specified. Existing law generally restricts the authority of a redevelopment agency to use moneys in its Low and Moderate Income Housing Fund outside the agency's territorial jurisdiction. Existing law permits a redevelopment agency to use up to 20% of the moneys in its Low and Moderate Income Housing Fund, not more than once every

5 years to develop housing outside its territorial jurisdiction under specified conditions.

This bill would limit this authority of a redevelopment agency to use moneys in its Low and Moderate Income Housing Fund outside its territorial jurisdiction to specified counties in major metropolitan ~~areas~~ *regions*, would restrict the source of the moneys in the redevelopment agency's Low and Moderate Income Housing Fund that may be transferred outside its jurisdiction to tax increment revenues, and would extensively revise other restrictions and procedures incident to the authority of a redevelopment agency to make extra-territorial use of the moneys in its Low and Moderate Income Housing Fund.

Existing law enacted in reaction to the threatened closure of the Los Angeles Air Force Base authorized the legislative bodies of communities located within the County of Los Angeles to adopt ordinances to expend their tax-increment moneys outside of their territorial jurisdictions to implement the Los Angeles Air Force Base Retention Program through the formation of a separate joint powers entity. Existing law also authorized the City of Cerritos to loan an amount, not to exceed \$15,000,000, from its Low and Moderate Income Housing Fund to develop senior housing in the City of Artesia.

This bill would repeal these provisions as they are no longer necessary to those communities.

The California Constitution provides that a local or special statute is invalid in any case if a general statute can be made applicable.

This bill would declare that, due to the unique circumstances within the Counties of Alameda, Contra Costa, ~~Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Napa,~~ Imperial, Los Angeles, ~~Orange, Riverside, San Bernardino, Ventura, and San Diego~~ *Marin, Napa, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Solano, Sonoma, and Ventura, and the City and County of San Francisco*, that this bill is intended to remedy, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33320.6 of the Health and Safety
2 Code is repealed.

3 SEC. 2. Section 33334.17 of the Health and Safety
4 Code is amended to read:

5 33334.17. (a) (1) The Legislature finds and declares
6 that the cost and availability of land, construction costs,
7 geophysical and environmental constraints, household
8 incomes, the market for affordable housing, commuting
9 patterns, and other related factors make it difficult for
10 some communities in major metropolitan regions to
11 provide their share of regional housing needs for persons
12 and households at all income levels. While the Legislature
13 finds that each community has a moral and legal
14 obligation to meet these needs, the Legislature
15 recognizes that there are instances in major metropolitan
16 regions where the use of housing funds in one community
17 will result in the construction or rehabilitation of more
18 housing units than in another community. For the sole
19 purpose of increasing the state's supply of affordable
20 housing in major metropolitan regions, it is, therefore,
21 necessary and appropriate that agencies in these
22 communities be permitted, under specified conditions, to
23 use a portion of the moneys in their Low and Moderate
24 Income Housing Funds outside these communities.
25 Therefore, the Legislature finds and declares that the use
26 of Low and Moderate Income Housing Funds pursuant to
27 this section shall be conclusively deemed to be a benefit
28 to the project area in which those funds were generated.

29 (2) This section shall apply only in major metropolitan
30 regions.

31 (b) Notwithstanding subdivision (c) of Section 33334.3
32 or Section 33670, a donor agency may, not more than once
33 every five years, transfer up to 20 percent of the amount
34 of the property tax increment revenue that has been
35 deposited in its Low and Moderate Income Housing Fund

1 at any one time to a receiving community to develop
2 affordable housing outside the territorial jurisdiction of
3 the donor agency, pursuant to this section. In
4 determining the amount of funds that can be transferred
5 pursuant to this section, the agency may transfer up to 20
6 percent of the balance of the property tax-increment
7 revenues that have been deposited in its Low and
8 Moderate Income Housing Fund reflected in the
9 accounts of the agency at the end of the previous fiscal
10 year, or 20 percent of the average balance of the property
11 tax increment revenues that have been deposited in its
12 Low and Moderate Income Housing Fund reflected in
13 the accounts of the agency at the end of each of the
14 previous two years, whichever is greater.

15 (c) The transfer of funds from a donor agency to a
16 receiving community shall be described in a mutually
17 acceptable, binding contract approved by the donor
18 agency and the legislative body of the receiving
19 community. The contract shall include each of the
20 following provisions:

21 (1) Moneys from the fund shall be used in the
22 receiving community to pay for the direct costs of
23 constructing, rehabilitating, or otherwise assisting
24 housing units which are affordable to lower income
25 households and very low income households.

26 (2) A donor agency's use of this section shall result in
27 the development of a greater number of dwelling units
28 and the accumulation of more financial and nonfinancial
29 resources in the receiving community than if the moneys
30 had been spent in the jurisdiction of the donor agency.

31 (3) The receiving community shall construct,
32 rehabilitate, or assist housing units within three years of
33 the date it first receives moneys from the donor agency
34 pursuant to this section. The receiving community shall
35 meet this requirement by documenting, for
36 newly-constructed units, that a building permit has been
37 issued and all fees have been paid or, for rehabilitated or
38 assisted units, that rehabilitation has been completed or
39 assistance has been provided.

(4) Moneys from the donor agency shall not be spent for administrative costs or offsite improvements.

(5) The contract shall not place a financial burden on the receiving community.

(6) The donor agency and the receiving community may agree to mutually acceptable terms and conditions which provide for reimbursing the receiving community for the public service and public ~~facilities~~ *facilities*' costs related to any new dwelling units constructed, rehabilitated, or otherwise assisted in the receiving community.

(7) The contract may include a plan and schedule for timely construction, rehabilitation, or assistance of housing units, including, but not limited to, site identification, identification of and timeframes for applying for sufficient subsidy or mortgage financing if units will need a subsidy or mortgage financing, and a finding that sufficient services and public facilities will be provided.

(8) The contract shall identify where within the receiving community the housing will be constructed, rehabilitated, or otherwise assisted. If the agency is the agency of a county, the receiving community shall be a city within that county. If the agency is the agency of a city, the receiving community shall be another city in the same county or the county itself. A donor agency may only transfer its funds to a receiving community that is within 15 miles of the exterior boundary of the community of the donor agency. The receiving community shall be within the same housing market area as the jurisdiction of the donor agency.

(9) The receiving community shall separately account for all moneys transferred and expenditures made pursuant to this section, conforming to the same annual reporting requirements as an agency. *At the end of the three years, the receiving community shall transfer back to the donor agency any unencumbered funds which shall be deemed to be excess surplus pursuant to Section 33334.12.*

(10) The contract may contain any other terms and conditions that are mutually acceptable to the donor agency and the receiving community which are consistent with the purposes of this part and this section. The contract may contain a transfer pursuant to Section 65584.5 of the Government Code.

(d) Before ~~an~~ a donor agency may use the provisions of this section, the community in which the donor agency is located must have met, in the current or previous housing element cycle, at least 15 percent of its existing share of the region's affordable housing needs, as defined in Section 65584 of the Government Code, for very low and lower income households.

(e) At the time of the signing of the contract pursuant to this section and during the duration of the contract, the community of the donor agency, the donor agency, and the receiving community shall comply with all applicable federal and state laws, including, but not limited to:

(1) Article XXXIV of the California Constitution.

(2) Relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

(3) The Planning and Zoning Law, Title 7 (commencing with Section 65000) of the Government Code, including, but not limited to, the requirement to adopt and maintain a complete and adequate general plan, including a housing element that substantially complies with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of that title.

(4) This part.

(5) The California Environmental Quality Act, Division 24 (commencing with Section 21000) of the Public Resources Code.

(f) (1) At least 60 days before the date proposed for the approval of the contract pursuant to this section, the donor agency shall send the draft contract to the department and the council of governments for their review and comment.

(2) After soliciting and considering public comments, the department shall review the draft contract for its

1 consistency with the requirements of this section. The
2 department shall report its written findings to the donor
3 agency and the receiving community within 45 days of
4 receiving the draft contract.

5 (3) After soliciting and considering public comments,
6 the council of governments shall review the draft
7 contract for its consistency with the requirements of this
8 section. If the council of governments finds that the draft
9 contract is not consistent with the requirements of this
10 section, the council may recommend changes to the draft
11 contract to achieve that consistency. The council of
12 governments shall recommend that the donor agency
13 and the receiving community approve the draft contract,
14 ~~the council of governments shall recommend that the~~
15 ~~donor agency and the receiving community approve the~~
16 ~~draft contract, approve the draft contract after making~~
17 ~~changes approve the draft contract after making changes,~~
18 or not approve the draft contract. The council of
19 governments shall report its written findings and its
20 recommendation to the donor agency and the receiving
21 community within 45 days of receiving the draft contract.

22 (4) Before making their written findings, the
23 department and the council of governments shall solicit
24 advice from persons and organizations experienced in
25 affordable housing issues.

26 (5) After providing notice pursuant to Section 6062 of
27 the Government Code, the donor agency and the
28 receiving community shall hold a public hearing to solicit
29 and consider public comments on the draft contract.

30 (6) At the public hearing, the donor agency and
31 receiving community shall also consider the written
32 findings submitted by the department and the council of
33 governments.

34 (7) If the council of governments recommends against
35 the approval of the draft contract, the donor agency and
36 receiving community shall not approve the contract. If
37 the council of governments recommends changes to the
38 draft contract before its approval, the donor agency and
39 the receiving community shall not approve the contract
40 unless they make the recommended changes.

(g) A donor agency shall not sign a contract pursuant to this section if any of the following exist:

(1) The donor agency has, pursuant to Section 33413, replacement housing requirements that must be met during the preceding three years, unless the contract identifies sufficient money to meet those needs.

(2) The donor agency has, pursuant to Section 33334.6, an indebtedness to its Low and Moderate Income Housing Fund.

(3) If Article XXXIV of the California Constitution applies, the receiving community lacks sufficient authority under Article XXXIV to allow the development of housing units with the funds that the donor agency proposes to transfer to the receiving community.

(4) The community of the donor agency has been a receiving community within the preceding three years.

(h) The expenditure of low- and moderate-income housing funds outside of the territorial jurisdiction of a donor agency shall, upon the approval of a contract pursuant to this section, be deemed to be a part of the redevelopment plan of the project area of the donor agency, as if the redevelopment plan had been amended to include the contract and those expenditures. However, in approving a contract pursuant to this section, the donor agency is not required to comply with Article 12 (commencing with Section 33450).

~~(h)~~

(i) The Attorney General, the department, a taxpayer or resident of the donor agency or the receiving community, or any other interested person shall have the authority to enforce the terms of a contract approved pursuant to this section. In a challenge to the validity of a contract approved pursuant to this section, the court shall use its independent judgment, after considering the written findings of the department and the council of governments.

~~(i)~~

(j) A city and the redevelopment agency of a city which has transferred moneys pursuant to Section 65854.3

65584.3 of the Government Code shall not approve a contract pursuant to this section.

~~(j)~~

(k) As used in this section:

(1) “Donor agency” means a redevelopment agency which proposes to spend moneys from its Low and Moderate Income Housing Fund outside its jurisdiction.

(2) “Receiving community” means a city or county which proposes to accept money from a donor agency’s Low and Moderate Income Housing Fund.

(3) “Housing market area” means an area determined by a council of governments or by the department pursuant to Section 65584 of the Government Code, based upon the market demand for housing, employment opportunities, the availability of suitable sites and public facilities, and commuting patterns.

(4) “Major metropolitan ~~region~~” *regions* means the Counties of Alameda, Contra Costa, Imperial, Los Angeles, Marin, Napa, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Solano, Sonoma, and Ventura, and the City and County of San Francisco.

(5) “Lower income households” has the same meaning as defined in Section 50079.

(6) “Very low income households” has the same meaning as defined in Section 50105.

~~(k)~~

(l) On or after January 1, 2001, no donor agency shall enter into a contract pursuant to this section unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 3. Section 33334.18 of the Health and Safety Code is repealed.

SEC. 4. The Legislature finds and declares that, because of the unique circumstances applicable only to the Counties of Alameda, Contra Costa, ~~Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Napa, Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura, and San Diego,~~ a statute of general *Imperial, Los Angeles, Marin, Napa, Orange, Riverside,*

1 *San Bernardino, San Diego, San Mateo, Santa Clara,*
2 *Solano, Sonoma, and Ventura, and the City and County*
3 *of San Francisco, a statute of general applicability cannot*
4 *be enacted within the meaning of subdivision (b) of*
5 *Section 16 of Article IV of the California Constitution.*
6 *Therefore, this special statute is necessary.*

